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PATENT

JUL 06 2006

## REMARKS

Claims 1, 2, 5-9, 11-19, 21 and 22 are pending in the present application. In the foregoing amendments, claims 1, 7-8, 14, and 18 have been amended, and claim 9 has been canceled without prejudice. Support for these amendments can be found in the specification and claims of the application as filed. No new matter has been added by these amendments.

Applicant respectfully requests entry of the foregoing amendments and reconsideration of the application in light of the amendments above and the remarks below.

Claim Rejections under 35 U.S.C. § 103(a)

In the Office Action dated 04/07/2006, the Examiner rejected claims 1, 2, 5-8 and 18 under 35 U.S.C. §103(a) as being unpatentable over Miyoshi et al. (U.S. Publication No. 2003/0022629 A1) in view of Dobson (U.S. Patent No. 6,650,643) and in further view of Chow et al. (U.S. Patent No. 6,748,220). The Examiner also rejected claims 14-17 under 35 U.S.C. §103(a) as being unpatentable over Miyoshi et al. in view of Dobson and in further view of Andersson et al. (U.S. Patent No. 6,519,461). Applicant respectfully traverses the rejections.

In the Office Action, the Examiner stated that the allowability of claims 1, 2, 5-8, and 14-18 as indicated in an Office Action mailed 09/09/2005 was withdrawn in view of the newly discovered reference(s) to Chow et al. In particular, the Examiner cited a section in Chow et al. (col. 9, lines 24-26) as disclosing that a bit error rate is used to determine the data throughput.

In the forgoing amendments, independent claim 1 has been amended to recite, "the performance of the receiving device is characterized by detecting packets dropped by the receiving device" (emphasis added). Applicant submits that claim 1 as amended is not taught or suggested by the cited references, alone or in combination, and is therefore allowable. Applicant respectfully requests that the rejection of claim 1 be withdrawn.

Independent claim 7 has been amended in the forgoing amendments to explicitly incorporate the limitations of claim 9, which was objected to in the Office Action, and is therefore in condition for allowance. Applicant respectfully requests that the rejection of claim 7 be withdrawn.

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Claims 14 and 18 have been amended in the forgoing amendments to be dependent from independent claim 7, and are therefore in condition for allowance as well.

Dependent claims 5-6, 8, and 15-17 each depend from one of independent claims 1 and 7, and are allowable as well. Applicant respectfully requests that the rejections of these claims be withdrawn.

**Allowable Subject Matter**

In the Office Action, claim 9 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 11-13, 19, and 21-22 were allowed. Applicant thanks the Examiner for the indication of allowable subject matter

**PATENT****REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: 07/06/2006By: 

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